

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Mar 10, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ALAN RAY MCDOWELL, a.k.a.
ALAN RAY JOHNSON,

Plaintiff,

v.

LARRY HASKELL, ROBERT
FERGUSON and
JUSTIN BINGHAM,

Defendants.

NO: 2:20-CV-300-RMP

ORDER DISMISSING ACTION

1915(g)

By Order filed December 16, 2020, ECF No. 22, the Court reopened this case to allow Plaintiff Alan Ray McDowell to comply with the Order advising him of the deficiencies of his complaint and directing him to amend or voluntarily dismiss. ECF No. 14. The Court granted Plaintiff, a prisoner at the Spokane County Detention Services, until February 16, 2021, to amend or voluntarily dismiss and he did not do so.

Rather, on February 16, 2021, Plaintiff filed a document titled, "Motion &
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1 Order for Witness Protection for U.S. Treasury Audit.” ECF No. 26. This
2 document is not sufficient as a First Amended Complaint, as it seeks protection for
3 numerous individuals who are not parties in this action. *See Johns v. Cty. of San*
4 *Diego*, 114 F.3d 874, 876–77 (9th Cir.1997) (explaining that constitutional claims
5 are personal and cannot be asserted vicariously, and that a non-attorney may
6 appear *pro se* on his own behalf but has no authority to appear as an attorney for
7 others).

8 Although granted the opportunity to do so, Plaintiff has failed to file a First
9 Amended Complaint that states a claim upon which relief may be granted. He did
10 not clearly and concisely present a claim that would entitle him to relief in this
11 Court.

12 Accordingly, for the reasons set forth above and in the Order to Amend or
13 Voluntarily Dismiss, ECF No. 14, **IT IS ORDERED** that this action is
14 **DISMISSED WITH PREJUDICE** for failure to state a claim upon which relief
15 may be granted under 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).

16 Pursuant to 28 U.S.C. § 1915(g) a prisoner who brings three or more civil
17 actions or appeals which are dismissed as frivolous or for failure to state a claim
18 will be precluded from bringing any other civil action or appeal *in forma pauperis*
19 “unless the prisoner is under imminent danger of serious physical injury.” 28

20 U.S.C. § 1915(g). **Plaintiff is advised to read the statutory provisions of 28**

21 **U.S.C. § 1915. This dismissal of Plaintiff's complaint may count as one of the**
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1 three dismissals allowed by 28 U.S.C. § 1915(g) and may adversely affect his
2 ability to file future claims *in forma pauperis*. IT IS FURTHER ORDERED
3 that all pending motions are **DENIED AS MOOT.**

4 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this
5 Order, enter Judgment, provide copies to Plaintiff, and **CLOSE** the file. The
6 District Court Clerk is further directed to provide a copy of this Order to the Office
7 of the Attorney General of Washington, Corrections Division. The Court certifies
8 that any appeal of this dismissal would not be taken in good faith.

9 **DATED** March 10, 2021.

10
11 s/ Rosanna Malouf Peterson
12 ROSANNA MALOUF PETERSON
13 United States District Judge
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